

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

DAVID S. YARNALL, )  
                      )  
Plaintiff,          )     CONSOLIDATED  
                      )  
v.                    )     CIV. No.: 05-527-SLR  
                      )  
CPL. ANTHONY MENDEZ, DELAWARE )     CIV. NO.: 06-501-SLR  
STATE POLICE - TROOP 7, PTLM    )  
LOWE, UNKNOWN OFFICERS WHO      )     CIV. NO.: 06-529-SLR  
RESPONDED TO SCENE OF          )  
MILLSBORO POLICE, AND PFC      )  
BUCHERT,                )  
                      )  
Defendants.          )

DEFENDANT PTLM LOWE'S RESPONSES TO PLAINTIFF'S  
FIRST SET OF INTERROGATORIES

1. Ptlm Lowe 10732001, do you need glasses to see that I, DS4, was not resisting when you jabbed me in the ribs and tasered me?

ANSWER: Ptlm Officer Lowe did not jab plaintiff in the ribs. Officer Lowe reasonably perceived that plaintiff was resisting Cpl. Mendez and continuing to struggle against Cpl. Mendez when Officer Lowe first applied the taser.

2. Who gave you the order to assault me?

ANSWER: Officer Lowe did not assault plaintiff. Officer Lowe used reasonable force appropriate to the situation.

3. Why would you be screaming for me to get on my stomach after you sucker punched me with a taser gun and I was laying on my back already handcuffed?

ANSWER: Officer Lowe did not "sucker punch" plaintiff with a taser gun. See responses to Interrogatories 1 and 2 above. When Officer Lowe yelled for plaintiff to get on his stomach, plaintiff was on his knees, not laying on his back.

4. Why is your police report pending supervisory review?

ANSWER: All Millsboro Police Department reports are completed pending supervisory review.

5. Why is your police report mostly all lies?

ANSWER: Officer Lowe's report does not contain any lies.

6. Where in the video (7SP 6345/Tape 7-218) while I'm laying on my back, on my handcuffed hands, you Ptlm Lowe screaming at me, DS4 "Get on your stomach" are you putting rubber gloves on to keep my blood from getting on you?

ANSWER: Officer Lowe did not try to put rubber gloves on.

7. Ptlm Lowe, so you mean to tell me you were pointing a taser gun at me, hollering for me to get on my stomach and putting rubber gloves on all at the same time?

ANSWER: No.

8. Did you say it as a joke or did you think it was funny when you said "its probably in the man's head" after Cpl. Mendez asked where his flashlight was?

ANSWER: Officer Lowe does not recall any such comment.

9. Do you like the sight of blood because you seemed to enjoy mine all over Mendez' hood of his police cruiser?

ANSWER: No.

10. While you were harassing, assaulting and tasering me in front of the police cruiser, the other officers were just standing around doing nothing weren't they?

ANSWER: Officer Lowe did not assault or harass plaintiff.

11. Has Ptlm Lowe 10732001 ever had a complaint filed against him?

ANSWER: Objection. The information requested by this Interrogatory is privileged and is not relevant to any matter at issue in this case.

12. Who were the police officers standing across from me because you know that getting tasered takes away memory?

ANSWER: The only officers from the Millsboro Police Department at the scene were Officer Lowe and Officer Buchert. Upon information and belief, Delaware State Police Officer Ryan Mitchell arrived on the scene shortly after Officer Lowe and Officer Buchert.

13. Now that we punched holes all through your police report, were you and Buchert really the first officers on the scene?

ANSWER: Officer Lowe and Officer Buchert were the first officers who arrived on the scene in response to Officer Mendez' distress call.

14. Did you taser me so I would forget that I saw two cops standing across from me because you know that getting tasered takes away memory?

ANSWER: No.

15. Ptlm. Lowe you stated in your police report that you backed off of me, DS4, to put a shooting cartridge on the taser gun, is that because you were one of the cops across from me that already had shot their taser gun?

ANSWER: Officer Lowe does not understand this question.

16. Why did you state in your police report that you zip tied my feet while waiting for more officers to arrive and you are seen hurrying to zip tie my feet right as the ambulance is turning a right into Grotto's?

ANSWER: Plaintiff's feet were restrained with flex cuffs because he was still being combative and acting irrationally.

17. How many other police reports have you lied on?

ANSWER: See Response to Interrogatory 5 above. Officer Lowe has not lied on any police reports.

18. Was that your taser gun cable that I saw coiled at the bottom of Mendez's windshield that was already shot?

ANSWER: Officer Lowe cannot fully respond to this Interrogatory because he does not know what plaintiff saw. Upon information and belief, no.

19. Who was the cop that got the flashlight from the older PC3 guy and he got it from PC2 while I was getting attacked by you, Ptlm Lowe?

ANSWER: Officer Lowe did not attack plaintiff and Officer Lowe does not know which officer, if any "got the flashlight from the older guy."

20. You stated in your police report that I jumped up off the ground and ran. Wasn't it the blow to the back of my neck that knocked me to my knees, then I ran because you kept threatening me and harassing me with a taser gun?

ANSWER: Officer Lowe's application of the taser stopped plaintiff's struggle against Officer Mendez and caused plaintiff to fall to the ground. Officer Lowe does not know why plaintiff ran instead of obeying the officers' direction to stay on the ground and get on his stomach.

21. You didn't get any blood on yourself because in the video your left palm on the corner of the hood to keep your hand out of the blood on the hood as Mendez falls on top of me. How did you know there was blood all over the hood?

ANSWER: Officer Lowe saw that plaintiff was bleeding from the left side of his head. Some of plaintiff's blood did "get on" Officer Lowe. Officer Lowe was not aware whether there was blood all over the hood.

22. Ptlm Lowe, is it true that a jolt from a taser can disable a man for minutes, leave him helpless, muscles spasming as his nerves misfire?

ANSWER: A taser application is designed to temporarily disable a resisting subject.

23. So after you tased me the first time, how come you or nobody else tried to restrain me there in front of the car as your partner Buchert claims?

ANSWER: There was a brief attempt to restrain plaintiff as it became apparent that plaintiff was not following the officers' instructions.

24. After seeing your joking manner at the end of the video, did you and Buchert want to play with me and give me room to run to see if I would?

ANSWER: No.

25. How many other guys have you assaulted before taking them to jail?

ANSWER: Officer Lowe did not assault plaintiff and has not assaulted any other individuals before taking them to jail.

AKIN & HERRON, P.A.

/s/ Bruce C. Herron

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Ptlm Lowe and PFC Buchert

Dated: February 19, 2007

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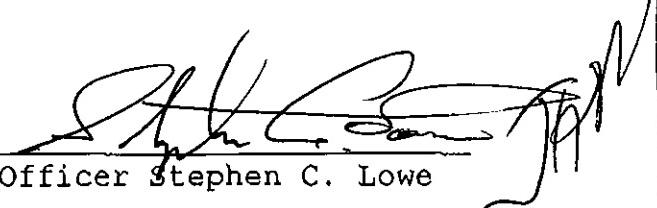
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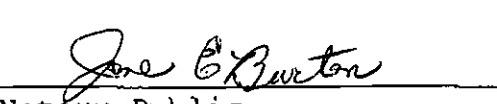
AFFIDAVIT OF OFFICER STEPHEN C. LOWE

BE IT REMEMBERED on this 12<sup>th</sup> day of February, 2007, Officer Stephen C. Lowe, did appear before me, a Notary Public, and did depose and say the following:

1. I am currently employed as a police officer by the Town of Millsboro.
2. I am a named defendant in the above action.
3. I have reviewed the foregoing Responses to Plaintiff's First Set of Interrogatories and they are true and correct to the best of my knowledge and belief.

  
Officer Stephen C. Lowe

SWORN TO AND SUBSCRIBED BEFORE ME, a Notary Public, on the day and year aforesaid.

  
\_\_\_\_\_  
Notary Public